



DOCKET NO. D6080-00001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Malmros

Serial No. 09/306,662

Filing Date: May 5, 1999

For: **METHOD OF IN SITU DIAGNOSIS BY SPECTROSCOPIC ANALYSIS OF
BIOLOGICAL STAIN COMPOSITIONS**

STATEMENT IN SUPPORT OF PETITION TO REVIVE ABANDONED APPLICATION
UNDER THE PROVISIONS OF
37 C.F.R. § 1.37 (b)

BOX DAC
Commissioner of Patents
Washington, D.C. 20231

Sir:

Applicant respectfully petitions the Commissioner of Patents and Trademarks to revive the above-identified application under the provisions of 37 C.F.R. § 1.137(B). The above-identified application became abandoned unintentionally through the applicant's filing of a Request for Continued Examination (RCE), which was deemed improper because prosecution on the application had not closed. Applicant's attorney conferred with the Examiner assigned to the application following receipt by Applicant's attorney of the enclosed Notice of Improper Request for Continued Examination. The Examiner researched the question and consulted with superiors at the U.S. Patent and Trademark Office, and informed Applicant's attorney that in view of the improper filing of a RCE, the application has been abandoned. The Examiner informed Applicant's attorney that CPA application may be filed, along with a Petition to Revive. Accordingly, Applicant respectfully submits herewith a CPA and a proposed Amendment, and respectfully requests entry of the Amendment. The entire delay from the time Applicant's

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attorney learned of the necessity of reviving the application until the date of filing of this grantable petition, was unintentional.

Applicant respectfully requests that the \$620.00 small entity petition fee, the \$355 small entity CPA filing fee, and any additional fees, be charged to Deposit Account No. 04-1679.

Respectfully submitted,

Date: September 13, 2001



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DAC/14

PTO/SB/64 (10-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
D6080-00001First named inventor: **Malmros**Application No.: **09/306,662**Group Art Unit: **1642**Filed: **May 5, 1999**Examiner: **S. Rawlings**Title: **Method of In-Situ Diagnosis by Spectroscopic Analysis of Biological Stain Compositions**Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ **620.00** (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of Continued Prosecution Application CPA Request Transmittal (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

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Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on
the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC
20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231**RECEIVED**

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

September 13, 2001

Date

Gail Dalickas

Signature

Telephone

Number: (215) 979-1840

Gail A. Dalickas

Typed or printed name

Duane, Morris & Heckscher LLP

Address

One Liberty Place

Philadelphia, PA 19103

Enclosures: ☐ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay
Certificate Under CFR 1.10; Fee Transmittal; Preliminary Amendment and Copy of Notice of Improper

☒ Other: Request for Continued Examination (RCE)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.10]

I hereby certify that this correspondence is being:

Express Mail Post Office to Addressee

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

September 13, 2001

Date

Elizabeth Orleman

Signature

Elizabeth Orleman

Type or printed name of person signing certificate